David Edward Rich

[redacted]

Dear members of the International Tax Working Group,

I write as an American who has lived his entire adult live overseas, to share some of my concerns with respect to U.S. taxation of Americans who reside abroad. It is well known that the U.S. is the only major nation to assess income tax based on citizenship rather than residence, and that this creates substantial burdens in cost and compliance efforts. Below I share some of my particular concerns and experiences.

Unfair choices for foreign spouses of Americans. I am currently married to a foreign citizen which in order to not unfairly encumber her in the US Tax system, I have to declare as "married filing separately" which creates a higher tax burden upon my family. While she is part of my family I am unable to claim large medical expense bills for a pregnancy we had last year which ended in a miscarriage. Since she is not a US citizen I am unable to claim associated medical costs for my family.

Educational Costs for Expatriates in Hong Kong for US Citizen Dependents. While I am able to claim a deduction for my daughter who is a US Citizen, the cost of education in Hong Kong can run to US$25,000-US$30,000 a year beginning at age 3 in order to receive similar to what would be the US public school normal standard. This education burden is a real cost, and is not at all factored into the current tax system since I am paying for her education with after-tax dollars. The ability of Americans in Hong Kong to get equivalent education, at a very steep cost is concerning, and is as well not factored into the current system

Limitations of the foreign tax credits system in ameliorating double taxation. In theory, the U.S. doesn't double tax its overseas citizens because foreign tax is creditable. In reality, the system only works in countries that (like the U.S.) raise most of their revenue through income taxes. This is often not the case.

Hong Kong – where I live – raises around a third of revenue through the land system in what amounts to a set of hefty hidden taxes on real estate. These "taxes" filter through to housing prices as well as the costs of nearly all goods and services, but are not creditable in the U.S. system. The foreign housing exclusion helps, but only partially, and only for those who rent their home.

Other jurisdictions rely primarily on VAT or other taxes, rather than income taxes. Yet the U.S. tax treatment of overseas citizens seems to be based around the faulty assumption that all tax systems are like the income tax-centered U.S. system.

Unfair treatment of foreign pension funds. Most Americans who have an employee-provided defined contribution pension plan benefit from tax deferred programs such as the 401(k). Like many Americans employed abroad by a foreign employer, I am required by local law to enroll in my employer's local pension fund. Under current American tax law such a fund is not tax-advantaged, creating an additional burden for retirement savings of overseas Americans relative to U.S.-based citizens. Furthermore, simply possessing such a retirement account – irrespective of whether or not the employee desired it – creates a substantial additional compliance burden on American overseas workers.

My specific case includes me having to hire a tax preparation service for US$1,000 a year annual in expenses in order to comply with FATCA, and to ensure my information is correct. A specific example would be I have worked at 3 different banks during my time in Asia, and have had 4 jobs over the last 11 years. With each job I have a separate local retirement account for each company I work for. Some of these balances are ***de minimis*** and are below US$10,000 or US$500 in some cases. Each year I have to compile all the paperwork to dig through accounts and declare balances such as US$478 per retirement fund. There are not specific tax advantages to these funds, and the reporting creates an undue process. Separately many of the funds in Hong Kong have a March 31 year end calendar, so some of the reporting documents are not available to report on time, creating an ongoing administrative time lag for normal US citizens that work abroad.

Above all, I feel that the U.S. tax system does not give sufficient consideration to the circumstances of Americans like me who have settled for the long run overseas. American citizenship is indeed a privilege – but America should make room for those of us who want to remain American while also being "normal" residents in our countries of residence. We cannot live normal lives if we bring special burdens upon our spouses, if our access to financial services is limited due to FATCA, or if we pay much higher effective tax rates than our neighbors.

The most logical reform would be a move to a residency-based tax system, which would bring the U.S. in line with the rest of the world. While there would undoubtedly be concerns about abuse of such a system – and I support robust measures to stem such abuse – I am confident that the committee would be able to design a system with appropriate safeguards in place that is nonetheless much fairer to bona fide long-term foreign residents than the current system.

Sincerely,

David E. Rich

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